

FINAL DECREE ON THE IMPLEMENTATION OF ART 173 OF THE FRENCH LAW ON THE ENERGY TRANSITION FOR GREEN GROWTH - CLIMATE AND ESG DISCLOSURE FROM INSTITUTIONAL INVESTORS

The following is a summary translation provided by the 2° Investing Initiative on the implementation guidelines submitted by the French Treasury on Art. 173 of the French Energy Transition Law providing for mandatory climate disclosure by investors. The implementation decree has been published in the Official Journal of the French Republic. You can find the official text in French [here](#).

Disclaimer: 2° Investing Initiative does not guarantee the accuracy and completeness of this translation. All information is subject to change without prior notice.

CONCERNED PARTIES AND ENTRY INTO FORCE:

The decree applies to insurance companies, pension and social security funds, asset management companies, the Caisse des Depots et Consignations, institutions providing supplementary pension schemes (public and private) and pension fund for local government officials which are subject to the French Monetary and Financial Code ([link](#)).

The provisions become effective from 01 January 2016

REPORTING ON INTEGRATION OF ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) CRITERIA

The following provides a general overview of ESG reporting requirements (article 1, subsection II, paragraph 1):

1. The investor should report on the general approach with regard to the inclusion of ESG issues in the investment policy and risk management;
2. The investor should report on the content, frequency, and means used by the entity to inform subscribers, affiliates, contributors, beneficiaries or clients about the integration of ESG criteria as reflected in the investment policy and, if applicable, risk management;
3. For an asset management company, the list and the % share of funds (in assets under management) that integrate ESG criteria;
4. The use of (or membership in) labels, initiatives, charters, and codes related to informing on the 'quality' of ESG practices, including a brief description of said labels, initiatives, charters, and codes;
5. If the entity has a risk management policy, a general description of the internal procedures of the entity to identify the risks associated with ESG issues, a general description of risks identified, and the exposure of its activities to these risks;

The following provides further details on these reporting requirements with regard to its impact on investment policies and decisions and which aspects they integrate (article 1, subsection II, paragraph 2):

1. If applicable, entities can make distinctions in terms of ESG integration according to their activities, by asset class, by investment portfolio by issuer, or any other relevant division of the activities. They should indicate the reasons for these distinctions. Asset managers in particular can provide reporting elements jointly for several funds under management if these have similar characteristics. Elements include:

- a. Description of the nature of the main criteria considered for ESG issues and the reasons for choosing them;
 - b. Description of the general information used for the analysis of issuers on criteria relating to compliance with ESG issues;
 - c. Description of the methodology of the ESG analysis and the results;
 - d. Description of how the results of the analysis on ESG issues, including exposure to climate risks, are integrated in investment policies;
 - e. Changes triggered in the investment policy regarding divestment decisions and if applicable risk management processes;
 - f. Where applicable, a description of how those segments of the portfolio which are not subject to an ESG assessment are managed;
2. Definition of engagement policy targeting issuers, including:
 - a. Presentation of the engagement policy with regard to issuers;
 - b. Presentation of the voting policy;
 - c. Assessment of the engagement actions implemented;
 3. Definition of an engagement policy targeting fund managers, including:
 - a. Presentation of engagement policies with fund managers for portfolios delegated by mandate, including the use of voting rights;
 - b. Assessment of the engagement actions implemented.

Further provisions (article 1, subsection II, paragraph 3 and 4):

1. If applicable, asset management companies shall report the above items from paragraph 2 in relation to investments managed for third parties;
2. If an entity doesn't include ESG criteria or if it does so only partially, it should justify why.

REPORTING ON INTEGRATION OF CLIMATE RISKS AND THE CONTRIBUTION TO THE ENERGY TRANSITION

The decree defines the following climate change issues to guide the choice of environmental criteria that should be taken into account regarding the reporting of items under subsection II, paragraph 2 (article 1, subsection III, paragraphs 1-3):

1. Assessment of climate risk refers to:
 - a. Physical risks, defined as exposure to physical impacts directly induced by climate change;
 - b. Transition risk, defined as the exposure to changes caused by the transition to a low-carbon economy;
2. An assessment of the contribution to meeting the international target of limiting global warming and to achieving the objectives of the energy and ecological transition as defined by the French Low Carbon Strategy [Note: official road map including carbon budgets and sector specific targets from 2015 to 2050].

The entities should describe the sources of information used that may cover:

1. Financial and extra-financial data;
2. Internal and external analysis and ratings;
3. Any other type of relevant information.

The entities should describe the methodologies used for their analysis, which can include:

1. General information on:
 - a. The overall characteristics of the methodology of analysis;
 - b. If applicable, the underlying principal hypotheses and their compatibility with the international goal of limiting global warming;
 - c. An explanation of the relevance of the method and the selected perimeter.

2. The risk exposure and contribution to the transition of the portfolio are assessed based on internal or external analysis, depending on the type of asset or activities of the entity. They can be based on /cover the following:
 - a. The consequences climate change and extreme weather events;
 - b. Changes in the availability and price of natural resources and the consistency of their exploitation with climate and environmental goals;
 - c. The coherence of capital expenditure of issuers with low carbon strategies, and in particular for actors involved in the development of fossil fuel reserves, the underlying hypotheses supporting such expenditures;
 - d. Any policy risk related to the implementation of international climate targets and the national environmental and energy transition;
 - e. Measures of past, current or future emissions of greenhouse gases, directly or indirectly associated with emitters included in the investment portfolio. In terms of the methodology used for GHG accounting, the decree makes the following references as to what should be reported (without further guidance on rules):
 1. The overall characteristics of the methodology;
 2. The scope of the measurement greenhouse gas emissions;
 3. The way the measure is used for risk analysis;
 4. If applicable, the indicator used to calculate the carbon intensity of an issuer;
 5. If aggregated numbers are used, the definition of weights used;
 - f. Assets invested in thematic funds, securities or infrastructure assets contributing to energy and ecological transition, or funds benefiting from a label, charter or initiative relative to the achievement of international climate goals or the national environmental and energy transition.
 - g. Any other relevant item allowing assessing in a pertinent way the risk exposure related to climate change of an entity or its contribution to the national transition and international climate targets.

REPORTING ON THE ALIGNMENT OF VOLUNTARY DECARBONIZATION TARGETS WITH NATIONAL AND INTERNATIONAL GOALS

In terms of implications for investment policies, the entity should provide (article 1, subsection III, paragraphs 4-5):

1. Indicative targets it sets itself to assess its contribution to achieving the national and global climate targets, depending on the nature of its activities and the nature of its investments;
2. A description of the consistency of these indicative targets with the objectives adopted by the European Union and with the carbon budgets of the national low-carbon strategy;
3. Actions to achieve these indicative targets, including:
 - a. Changes made in the investment policy,
 - b. Divestment,
 - c. Engagement with issuers,

- d. Increases in investments made in thematic funds, securities or assets of infrastructure contributing to energy and ecological transition, funds having a specific label, adhering to a charter or being part of an initiative in this respect;
4. if applicable, its performance vs. these indicative targets for the last financial year and, an explanation for gaps where they exist.

The government plans to publish an assessment of the implementation of the present article after two years of application (before end of December 2018) and may define a reference definition of indicative targets based on observed best practices.

SPECIAL PROVISIONS AND OTHER ITEMS

The following entities may choose to provide only information on a general overview of ESG integration as described in article 1, subsection 1, paragraph 1 (article 1, subsection IV):

- Entities belonging to a group which draws up consolidated accounts with a total balance sheet of less than EUR 500 million,
- Entities with a total balance sheet of less than EUR 500 million if they are not subject to consolidated or combined accounts,
- Asset management companies may do so for those investment funds managed with less than EUR 500 million of assets.

The remaining elements of the decree refer to:

- How information should be published, notably in annual reports and on the website of the entities;
- For groups or consolidated entities presenting combined accounts, the information may be published in a consolidated way for the whole group by the entity in charge of establishing combined accounts. In case this entity is not subject to the decree, the information may be presented in combined form for all entities of the group subject to the regulation at an appropriate level.
- The information may be presented following a convention or code established by a professional association, in which case the entity has to state in a foreword which convention or code it is applying;
- Financial supervisors ensure compliance in accordance with their mandates;
- The ministries of the environment, the ministry for the economy and the ministry of social affairs are charged with the implementation of the decree;
- The decree will be reviewed at the end of the first two exercises and before the end of 2018.